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DOCKET NO. 36346

**APPLICATION OF NEW CINGULAR
WIRELESS PCS, LLC FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
(ETC) IN LIEU OF DOBSON
CELLULAR SYSTEMS, INC.
PURSUANT TO 47 U.S.C. § 214(e) AND
P.U.C. SUBST. R. 26.418**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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**ORDER NO. 8
NOTICE OF APPROVAL OF DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER AND RELINQUISHMENT OF ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

This order grants final approval of the application of New Cingular Wireless PCS, LLC (AT&T Mobility) for designation as an eligible telecommunications carrier (ETC) and the application of Dobson Cellular Systems, Inc. (Dobson) for ETC relinquishment.

I. Procedural History

On November 3, 2008, New Cingular Wireless PCS, LLC (AT&T Mobility) filed an application for designation as an eligible telecommunications carrier (ETC) in lieu of Dobson Cellular Systems, Inc. (Dobson), pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418. AT&T Mobility is a common carrier as defined in 47 U.S.C. § 153(10) and a telecommunications provider as defined in PURA¹ § 51.002(10). AT&T Mobility is a facilities-based provider of Commercial Mobile Radio Service (CMRS) as licensed by the Federal Communications Commission (FCC), and provides CMRS through its own facilities and through network sharing arrangements with neighboring cellular providers. AT&T Mobility is requesting ETC designation in the non-rural telephone company wire centers served by Verizon Southwest (Verizon), and Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas), and the entire rural study areas served by Colorado Valley Telephone Cooperative, Comanche County Telephone Company, Ganado Telephone Company, and Industry Telephone

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001–66.016 (Vernon 2007 & Supp. 2008) (PURA).

Company. A list of all applicable non-rural wire centers and rural study areas is shown as Attachment B to the application.

Dobson was previously a subsidiary of Dobson Communications Corporation (DCC). On November 15, 2007, DCC became a wholly-owned subsidiary of AT&T Inc. (AT&T), and as such acquired the FCC licenses in Texas held by DCC. As a condition of the merger, the FCC required that TX-10 RSA be divested. On July 24, 2008, AT&T filed a request with the Commission to relinquish Dobson's ETC designation in the wire centers that, in whole or in part, were located in TX-10 RSA. AT&T's request was granted on September 25, 2008.

In that same proceeding, AT&T requested that Dobson's ETC designation in the remaining ETC designated area be transferred to AT&T Mobility in light of the fact that its parent planned to merge Dobson into AT&T Mobility. However, the Administrative Law Judge ruled that AT&T Mobility must apply for a new ETC designation rather than seek the transfer of Dobson's existing ETC designation to AT&T Mobility.

On December 3, 2008, the Commission found AT&T Mobility's application deficient for further processing as a request for ETC designation and ETC relinquishment. AT&T Mobility was directed to file an amended application to cure the deficiencies.

On December 10, 2008, AT&T Mobility filed an amended application, and jointly with Dobson, an application for simultaneous relinquishment of its ETC designation. AT&T Mobility's amended application included a request for an interim order approving its amended application and Dobson's application for relinquishment. The filing also requested a good cause waiver of the ETC relinquishment requirements set forth in P.U.C. SUBST. R. 26.418(i)(1), and noted that contrary to earlier assertions, the Office of Public Utility Counsel had been served with a copy of the original application. Finally, AT&T Mobility and Dobson provided a copy of a proposed *Texas Register* notice for its amended and joint application.

No objection, comment, or motions to intervene were filed, and no hearing was requested. P.U.C. SUBST. R. 26.418(g)(2)(A) provides that applications for ETC designation may be reviewed administratively.

On February 10, 2009, Commission Staff (Staff) filed a recommendation for approval of designation as an ETC based on the following:

To qualify for ETC status, a carrier must meet the following criteria:²

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following services³ using its own facilities or a combination of its own facilities and the resale of another carrier's services:⁴
 - (a) voice grade access to the public switched network;
 - (b) local usage;
 - (c) dual tone multi frequency signaling or its functional equivalent;
 - (d) single party service or its equivalent;
 - (e) access to 911 or enhanced 911;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance;
 - (i) toll blocking for qualifying low income customers;
 - (j) toll control for qualifying low income customers, and
 - (k) the company must advertise the availability of the above services and the charges for the services in media of general distribution.⁵
3. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁶

² 47 C.F.R. § 54.201(b)-(d).

³ 47 C.F.R. § 54.101.

⁴ 47 C.F.R. § 54.201.

⁵ 47 C.F.R. § 54.201.

⁶ 47 C.F.R. § 54.405.

AT&T Mobility meets all of the above criteria. AT&T Mobility will advertise the designated services and their rates through notices using media of general distribution. AT&T Mobility will provide telecommunications services using either its own facilities or a combination of its own facilities and the resale of another carrier's services. AT&T Mobility will offer Lifeline Service to qualifying customers in compliance with 47 C.F.R. Part 54, Subpart E. AT&T Mobility commits to offer toll limitation services in accordance with 47 C.F.R. §§ 54.400 and 54.401.

AT&T Mobility has also agreed in its Amended Application to:

1. i. Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will:
 - A. Provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and
 - B. Provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, pursuant to Findings of Fact Nos. 50 and 51 of Docket No 29144, which include:
 1. Modifying or replacing the requesting customer's equipment;
 2. Deploying a roof-mounted antenna or other equipment;
 3. Adjusting the nearest cell tower;
 4. Adjusting network or customer facilities;
 5. Reselling services from another carrier's facilities to provide service;
or
 6. Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.
2. Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
3. Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and

Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

4. Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which it seeks designation.
5. AT&T Mobility shall track its expenditures and investments, and submit the following information per study area on an annual basis with its FUSF certification application: 1) a separate affidavit attesting to AT&T Mobility's annual as well as aggregate expenses and investments in each study area, with all relevant data attached; 2) the results of an annual customer satisfaction survey, and any relevant background documents, such as a copy of the survey itself; and the total number of complaints received per 1,000 handsets.

Staff has determined that AT&T Mobility meets all of the above additional criteria. AT&T Mobility has committed to provide service throughout the entire service area (non-rural wire centers and rural study areas) for which it seeks designation as an ETC. AT&T Mobility has stated that it has the ability to remain functional in emergency situations and that it will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service. Staff's analysis of the application concludes that AT&T Mobility meets all requirements established by the FCC for designation as an ETC.

On February 13, 2009, Order No. 6, as amended by Order No. 7, granted interim approval of AT&T Mobility's amended application for ETC designation and Dobson's amended application for relinquishment of its ETC designation. In addition, Order No., as amended by Order No. 7, required AT&T Mobility to notify the Commission of the date of the merger so that a final order approving the amended application may be issued. On April 2, 2009, AT&T Mobility filed a notice of the closing of the merger, effective as of 11:59 p.m. E.D.T. on March 31, 2009.

II. Ordering Paragraph

In accordance with Staff's recommendation and as described above, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, AT&T Mobility's amended application for ETC designation and Dobson's amended application for relinquishment of its ETC designation are approved effective as of 11:59 p.m. E.D.T. on March 31, 2009.

SIGNED AT AUSTIN, TEXAS on the 7th day of April 2009.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE